



Indiana Judicial Nominating Commission
30 South Meridian Street
Suite 500
Indianapolis, IN 46204
(317) 232-4706

APPLICATION
FOR THE
INDIANA SUPREME COURT

(SEE INSTRUCTIONS)
Deadline – Wednesday, June 30, 2010

I. Provide your:

A. Full legal name and any former names.

Monica Foster

B. Current home and office addresses, including email addresses and telephone numbers.

HOME:

OFFICE:

1455 N. Pennsylvania St.
Indianapolis, IN 46202
(317) 916-8210

C. Date and place of birth.

Dover, New Jersey
November 19, 1959

D. Complete a State Police release form printed on green paper. Include the release only with the original application and not with the copies.

II. Attach a recent photograph of you to the front of the original application and to each copy of your application.

III. A. State in what county you currently reside and since what date.

Marion County, Indiana
1980-Present

B. List all previous counties of residence, with dates.

Erie County, New York
1969-1980

Monroe County, New York
1967-1969

Schenectady County, New York
1963-1969

Passaic County, New Jersey
1959-1963

C. When were you admitted to the Indiana Bar?

October 1983

D. Are you currently on active status? Yes

E. What is your attorney number? 8368-49

IV. A. List below all colleges and universities you attended other than law schools. Attach a certified transcript from each to the original application and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>
State University of New York College at Buffalo	1976-1979	Bachelor of Science

B. List below all law schools and post-J.D. programs attended. Attach a certified transcript from each to the original application and attach copies of each transcript

to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree and Class Rank</u>
Indiana University School of Law, Indianapolis	1980-1983	J.D.

C. Describe any academic honors, awards, and scholarships you received and when.

My Bachelors Degree was awarded cum laude.

I also believe I received a small scholarship from New York State to attend a state institution but I cannot recall for certain and I am not possessed of any paperwork for it.

V. A. Provide your employment history since graduation from college, including titles or positions, locations, and dates.

Law office of Michael VanTreese, 22 N. Pennsylvania St., Indianapolis, IN 46204 (1980-82).

Law Office of Hugh Baker, E. Market St., Indianapolis, IN 46204 (1982-83).

Law Office of Reginald Bishop, Circle Tower Building, Indianapolis, IN 46204 (1982-83).

Indiana Public Defender Council, 309 W. Washington St., Indianapolis, IN 46204 1983-1987).

B. If applicable, describe the nature and extent of your practice of law, present and former, and provide the names of your partners, associates, office mates, and employers.

Upon graduation from law school in 1983, I worked as a Staff Attorney for the Indiana Public Defender Council. Initially, I provided research assistance to public defenders representing indigent persons where the right to counsel existed. After a short time doing that, I began providing assistance to public defenders representing indigent persons charged with or convicted and sentenced to the death penalty. I also began developing a small private practice. The Indiana Public Defender Council is a statewide agency that was and is located at 309 W. Washington St., Indianapolis, IN 46202. While at the Council I worked for Larry Landis who is the Executive Director. I also worked with the following

lawyers: Kit Keller, Brent Westerfeld, Maureen Keefe, Paula Sites and Tom Haynor.

In 1987, I left the Council and began practicing law independently from an office located at 136 East Market St. in Indianapolis. My practice at that time focused on appellate representation of persons convicted of crimes. In addition to representing clients who privately retained me, I had a contract with the Marion County Courts to provide appellate representation on an as needed basis for indigent persons convicted of felonies. Additionally, I accepted sporadic appointments from the Marion County Municipal Courts to represent persons convicted of misdemeanors. I also accepted appointments in capital post-conviction cases from the Office of the State Public Defender when that office had a conflict in representing the convicted offender. During this time, I had the privilege of arguing a case to the Court of Appeals for the Seventh Circuit, sitting *en banc*. *Hunter v. Clark*, 934 F.2d 856 (7th Cir. 1991). At the Market St. location I shared office space, but had no fee sharing arrangements with the following lawyers: Steven D. Allen, Arnie Baratz, Michael Conway, and Robert Hammerle.

In approximately 1992, I moved my office to 501 Indiana Ave. in Indianapolis. I rented space from the law firm of Lewis and Wagner. Again, I had no fee sharing arrangement with that firm. My practice at this time continued to be focused primarily on appellate representation of persons convicted of serious felonies, including the death penalty. I represented a number of persons convicted of murder and sentenced to the death penalty in the Indiana Supreme Court on both direct appeal and appeal from the denial of post-conviction relief. Because of the nature of my practice I had the good fortune to argue a number of cases before the Indiana Supreme Court and the United States Court of Appeals for the Seventh Circuit. During this time I was privileged to be appointed by the United States Supreme Court to brief and argue a case there. *Schiro v. Farley*, 510 U.S. 222 (1994). In addition to the lawyers employed at Lewis and Wagner I also shared office space with Robert Hammerle, Steven D. Allen and Rhonda Long-Sharp. There was no fee sharing arrangement with any of these attorneys.

In 2000, I moved my office to 719½ Massachusetts Ave. and in 2002 to 902 E. 66th St., both in Indianapolis. At both of these locations I worked with attorney Rhonda Long-Sharp in an office sharing arrangement with no fee sharing. In addition to handling appellate work, I made a conscious decision during to focus more on trial work. In 2000, along with Kevin McShane, I tried the capital case of *State of Indiana v. Kerrie Price* in the Marion County Superior Court. Mr. Price was charged with murdering two security guards in a public housing facility in Indianapolis. Mr. Price was convicted but we secured a unanimous jury decision and sentence of life in prison without parole.

In 2002, I agreed to represent the Government of Mexico in domestic courts throughout the United States. This work entails asserting Mexico's rights in courts throughout the United States where Mexico's nationals are charged with offenses that are or could be capital. My work in this regard has focused primarily in Chicago, Ohio, Indiana and Kentucky and involves work in both State and Federal Courts. It differs from my other work in that it involves international law questions. As part of my duties as Mexico's lawyer, I also consult with the American attorneys appointed to represent Mexican nationals facing the death penalty. I provide advice and assistance to them with a particular focus on treaty issues and cultural concerns.

In 2004, I bought the building where my law office is currently housed, 1455 N. Pennsylvania St. in Indianapolis. There, I have practiced with Rhonda Long-Sharp (co-owner of the building), Robert Hammerle, Joseph Cleary, Steven Allen and Christopher Hammerle. While at this location, I relocated temporarily when I was retained to represent a person charged with murder in New Hampshire. It was the first capital case in New Hampshire in over 70 years. That case entailed a 3 month trial in Brentwood New Hampshire and ended in a guilty verdict and life sentence. During this time, I have also been appointed by Federal Courts in Pennsylvania and Iowa to represent persons convicted and sentenced to death in those jurisdictions.

From 2005-2009 I taught Appellate Practice as an adjunct professor at the Indiana University School of Law in Indianapolis. I resigned in 2009 because I believed I was going to have a capital trial that semester that would prevent me from devoting adequate attention to my law students.

C. Describe the extent of your jury experience, if any.

My two most important jury trials as a litigant were *State of Indiana v. Kerrie Price*, Marion County Cause Number 49G06-9702-CF-28645 and *State of New Hampshire v. John J. Brooks*, Rockingham County, New Hampshire Docket Nos. 07-S-1028-1031; 08-S-580-583. In both of these cases I represented the Defendant and the charge was murder. In both cases the Defendant was charged with the death penalty. In both cases the Defendants were convicted of the primary charge but the jury rejected the death penalty. In Mr. Price's case, the jury was unanimous. In Mr. Brook's case, we do not know what the jury vote was because of the nature of New Hampshire law.

I have represented numerous defendants charged with the death penalty at the trial level whose cases ended in plea bargains, most recently a case in Marion County, *State v. Kenneth Allen*, Cause Number 49G01-0502-MR-020627, which plead in the winter of 2010. My jury experience beyond the capital cases involves mid-to-high range felonies and cases where the charge was murder but the death penalty was not sought.

D. If applicable, describe the nature and extent of your judicial experience, including a description of your experience presiding over jury trials, if any.

For a period of time in the 1990's, I occasionally sat as special judge in the Marion County Superior Court for initial hearings, guilty pleas and other pretrial hearings. I thought I had presided over more than one jury trial but I am able to locate only one appeal where I was the trial judge. That opinion can be found at *Holdridge v. State of Indiana*, 578 N.E.2d 661 (Ind. 1991).

VI. A. If applicable, list by caption, case number, and filing date up to five of your trial or appellate briefs and/or written judicial opinions.

Clark v. Schiro, United States Supreme Court Case Number 92-7549, Appellant's Brief filed:
Opinion Reported at: 510 U.S. 222 (1994).

Wayne Kubsch v. State of Indiana, Indiana Supreme Court Cause Number 71S00-9904-DP-239; Appellant's Brief filed May 18, 2001.
Opinion Reported at: 784 N.E.2d 905 (Ind. 2003).

Nancy Prewitt v. State of Indiana, Indiana Court of Appeals Cause Number 77A04-0304-CR-197; Appellant's Brief filed June 14, 2004.
Opinion Reported at: 819 N.E.2d 393 (Ind. Ct. App. 2004), *trans. den.*, 831 N.E.2d 739 (Ind. 2005).

State of Indiana v. Charles Barker, Indiana Supreme Court Cause Number 49S00-0110-DP-00461; Appellee's Brief filed 12/17/01.
Opinion Reported at: 768 N.E.2d 425 (Ind. 2004).

United States of America v. Dustin Lee Honken, Eighth Circuit Cause Number 05-3871; Appellant's Brief filed
Opinion Reported at: 541 F.3d 1146 (8th Cir. 2008), *cert. den.* 2009 U.S. LEXIS 9070.

B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, by date, and by subject matter.

I was a member of the Indiana Public Defender Commission from its inception in 1989. It is a legislatively created Board charged with creating a list of qualifications and compensation standards for lawyers appointed to death penalty cases. In the event the counties in individual cases complied with the Guidelines set by the Commission, the Commission was authorized to reimburse the counties 50% of the defense costs associated with the capital

case. The Commission's guidelines were sent to the Court and the Court ultimately adopted them in substantial part as a court rule. The Guidelines became Indiana Criminal Rule 24. The adoption by the Court of the majority of the Commission's guidelines was an important step to assuring that Indiana capital clients receive effective counsel and became mandatory throughout the State.

It is my opinion that C.R. 24 is responsible for raising the level of practice in capital cases in Indiana such that we have seen very little of the trouble seen in many other jurisdictions with things such as sleeping, drunk and drug addled attorneys with no experience handling capital cases. I also believe C.R. 24 is responsible for assuring to the extent possible that innocent persons are not wrongfully convicted.

C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

"Point/Counterpoint: Death Penalty and Defendants Seriously Abused As Children"; Violence Update; April, 1992. As I recall, this article concerned whether abuse and privation should be considered as a mitigating factor to justify a sentence less than death.

"Recent Developments Affecting the Criminal Procedure in Indiana", 22 Indiana Law Review 163 (1989). This was an update of criminal cases decided the previous year.

"Capital Murder: Can the Aggravator Merely Mimic Elements of the Charge Itself In Indiana? The *Lowenfield v. Phelps* Answer", Indiana Defender, March, 1989. This article, published in the public defender news letter, addressed the question of whether the narrowing requirement of the Eighth Amendment was met when aggravating factors to support the death penalty were identical to elements of the charge.

"Death Qualification: What Is The Standard In Indiana?", Indiana Defender, December, 1988, p. 5. This article, again published in the public defender news letter, addressed whether Indiana's statute on capital *voir dire* statutorily adopted the standard set forth in *Witherspoon v. Illinois* such that the Court's subsequent modification of that standard in *Wainwright v. Witt* was inapplicable in Indiana.

"Striking Back - Race Discrimination and Jury Selection: A Comment on *Batson v. Kentucky* in Indiana," Indiana Defender, March 1987, p. 4. This article, again published in the public defender news letter, addressed the then recent decision of the United States Supreme Court which overruled *Swain v.*

Alabama and made it easier to bring claims of race discrimination during *voir dire*.

I also drafted the following manuals in whole or in part, all for the Public Defender Council and all of which are out of print:

Indiana Sentencing Manual, (Indiana Public Defender Council 1988). This manual which was published for public defenders addressed issues surrounding sentencing.

Directory of Expert Witnesses, (Indiana Public Defender Council 1987). This manual was a compilation of expert witnesses with their CVs and lists of public defenders who had previously worked with them.

Jury Instructions for Criminal Cases (Indiana Public Defender Council 1986). This was a manual of proposed jury instructions with commentary and supporting case law.

Death Penalty Defense, Chapters on Federal Habeas Corpus, Executive Clemency (Indiana Public Defender Council 1985). These chapters were included in the 1985 version of the Public Defender Council death penalty manual. I authored the chapters concerning federal habeas corpus and executive clemency.

D. Include with your application copies of any four of the written materials listed above in Section VI. A., B., and C.

E. Describe the nature and extent of any *pro bono* legal services you have contributed.

In some sense the bulk of my legal career has been *pro bono* service because, although I am in private practice, a large percentage of my caseload involves appointed work on behalf of indigent clients at rates substantially below what I charge my private clients.

Other than my adjunct position at the law school, my teaching experience detailed in the response to question VII.F. was rendered without compensation other than expenses.

Additionally, I have served on the following boards without compensation:

Supreme Court Committee on Character and Fitness, Member, appointed by the Honorable Chief Justice Randall T. Shepard (2004-present). I am one of a number of persons responsible for interviewing Bar candidates and making recommendations as to their character and fitness to practice law.

Federal Community Defender Board of Directors, appointed by the Honorable David F. Hamilton, Judge, Southern District of Indiana, 2007-present. This Board assists the federal public defender agency deliver legal services to indigent persons accused of crimes in federal court.

Indiana Public Defender Commission, Board Member, 1989-2007. The Indiana Public Defender Commission was established by the state legislature to draft guidelines for the appointment, qualification and compensation of counsel in death penalty cases and to authorize state reimbursement to the ninety counties in Indiana for death penalty defense costs. In 1990, the Indiana Supreme Court adopted, in substantial part, the guidelines established by the Commission as Criminal Rule 24. Since that time the Commission has been responsible for assuring compliance with Criminal Rule 24 and approving applications from the counties for state funding in death penalty cases. The Commission has also drafted guidelines for appointment and compensation in all cases where the right to counsel exists. With regard to general felony delivery plans, the Commission is responsible for approving those plans and authorizing state reimbursement for the costs of defense.

Indiana Association of Criminal Defense Attorneys, Board Member, elected by membership, 1987-1995. The Indiana Association of Criminal Defense Attorneys is now defunct but was dedicated to addressing concerns of criminal defense attorneys through public comment, lobbying, training, and amicus brief writing.

Marion County Public Defender Agency, Board Member and Vice Chairperson, appointed by the Honorable Evan Goodman, Presiding Judge, Marion County Municipal Courts (reappointed by the Presiding Judge of the Marion County Unified Courts); 1993-2003. The Marion County Public Defender Agency was created in 1993 by city ordinance to design and implement a defender delivery system for indigents in Marion County where the right to counsel exists.

Task Force on the Death Penalty; Association of Retarded Citizens of Indiana; 1993-94. The Task Force assisted in drafting and lobbying for legislation which was enacted in 1994 prohibiting the death penalty from being imposed upon citizens with mental retardation.

Task Force on Juveniles and the Death Penalty: Assisted in drafting and lobbying for legislation which would have raised the minimum age for execution from 10 to 18; the legislature actually passed statute which raised age to 16. Subsequently, the age was statutorily raised to 18.

F. Identify the five most significant legal matters entrusted to you whether as a judge or lawyer, and describe why you believe them to be so.

This is a very difficult question for me to answer. The bulk of my practice over the past 27 years has been representing persons on trial for their lives or on appeal where they have been sentenced to death. Every case I have undertaken where life was at stake was the "most significant" at the time. What I have endeavored to do here is choose five cases that were also important for other reasons.

In 1990, I worked with Russ Johnson and Phil Brown representing Jack Dobkins who was charged with murder and the death penalty in Shelbyville, Indiana. The murder was more vicious than most, involving ritualistic aspects of sexual sadism. The victim was Jack's next door neighbor. Jack was charged based upon the fact that he was the last one to see the victim alive and his teeth impressions allegedly matched the bite marks found on the decedent's thighs. The case was very high profile in Shelbyville and the victim's family catcalled us as we entered and left court on Jack's case.

We worked the case relentlessly. After a few months we became convinced that Jack was innocent. We were able to debunk the State's forensic odontology experts with experts of our own who cast doubt on the State's experts' findings. As importantly to me, our painstaking mitigation investigation did not turn up any evidence in Jack's history of abuse or privation, factors always present in cases of this type. After seven months, we were able to convince the State that if Jack was not innocent, at least they could not prove he was guilty. They dismissed all charges against him. Subsequently, another man ~ a relative of the decedent ~ confessed and was convicted of the murder. See, *Carr v. State*, 728 N.E.2d 125 (Ind. 2000) (affirming conviction and 60 year sentence).

Representing innocent people charged with the death penalty is one of the most daunting tasks a lawyer can undertake. I suppose that is obvious. I selected Jack's case to include here because although there is widespread support for the death penalty nationally and in Indiana, there has never been a groundswell of support for executing those who are actually innocent. I selected Jack's case to tell you about because I was very reluctant initially to believe he was innocent. Part of this was the sheer heinousness of the crime. But it was also in part because I trust our system of justice and it was incomprehensible to me that in 1990 an innocent person would be charged with the death penalty in Indiana. Jack's case taught me a valuable lesson and that is that our system works because people in it are ever vigilant about making sure it works. One cannot sit comfortably back in the belief that the system is fair without working hard every day to make sure that is so.

In 1986, I became involved in the appeal of Paula Cooper. Paula had been convicted of a particularly grisly murder committed when she was 15

years old. At that time in Indiana, the death penalty could be imposed upon a person as young as 10 years of age. Paula's trial lawyer advised her to plead guilty and she did. She had no plea bargain and the judge ~ who was widely believed to be against the death penalty ~ sentenced Paula to death. Appellate counsel was appointed out of Lake County Indiana and that lawyer asked me to get involved. I was 27 years old; Paula was by then 17. She was housed at the Indiana Womens Prison and was then the only female physically on death "row". She was also suicidal. Paula had a terrible upbringing. She was abused, physically and sexually, by her father and was suffering desperately from that trauma in addition to the trauma of being sentenced to death as a teenager. Part of my job was to make sure that Paula stayed alive long enough to have her case decided by the Supreme Court. In that regard, I visited with her multiple times a week and tried to engage her in activities other than ruminating on her life and the possibility of her impending death. Her trial lawyer never informed her when the sentence would be carried out and when I first met her she believed it would be imminent. I assisted in preparing legal pleadings to challenge the sentence in the trial court and also did part of the argument there.

Meanwhile, I assisted in drafting and lobbying for a law to raise the legal age for execution from 10 to 18 years of age. The Legislature did raise the age pursuant to those efforts but only to the age of sixteen. See, P.L. 332-1987. Fifteen years later they would again raise the age, this time to eighteen. P.L. 117-2002.

When a nationally recognized expert came on board for litigation in the Indiana Supreme Court on Paula's case, I stepped aside on the litigation front but continued to see Paula and counsel with her. I sat with her at the Womens Prison during the oral argument. Eventually, Paula received relief from the Supreme Court which set aside her death sentence and imposed a term of years in its stead. In doing so, the Court referenced the statute raising the age for execution to 16 and held that to execute Paul Cooper would be both "unique and disproportionate" in that after passage of P.L. 332-1987 she would be "both the first and the last" person in Indiana executed for a crime committed at the age of fifteen. *Cooper v. State*, 540 N.E.2d 1216, 1219-1220 (Ind. 1989). This legislative and judicial action presaged the action the United States Supreme Court would eventually take in *Roper v. Simmons*, 543 U.S. 551 (2005) (8th and 14th Amendments prohibit imposition of death sentence on person under 18).

I have included Paula's case here because it changed the law in Indiana in a way that portended future United States Supreme Court case law. For me it was important because it taught me that successful litigation is not always limited to the four corners of the courtroom. I also learned the critical importance of client counseling as part of my obligations to my clients.

In 2000, I tried Kerrie Price's capital case in Indianapolis with Kevin McShane. We were able to secure a life sentence for Mr. Price in the face of a lot of aggravating evidence. Both of the prosecutors we worked against have gone on to take the bench. This case was important because after the jury unanimously returned a life sentence, the prosecutor, Scott Newman, dismissed the death penalty against two other capitally charged defendants stating that if he could not procure the death penalty against Mr. Price, he certainly could not procure it against these other two men.

Kerrie Price's case was important to me because I developed a relationship with one the victim's families. I still have a photo of the victim's daughter in my home and I think about them often. People frequently believe that defense lawyers do not care about the victims of violent crime but nothing could be further from the truth. I spent hours with these folks letting them vent on me what they really wanted to vent on my client. I listened when I think others had grown weary of listening or frankly did not know what to say. The truth is you don't have to say anything but I believe the justice system provides so precious little for the survivors of violent crime that we are obligated to at least listen. That is very least we can do. I try to establish a relationship with the survivors now in all my capital cases. It is important to me that when the victim's survivors walk into the courtroom with all the angst and anger and sorrow that consumes them that they at least know that the defendant's lawyer is not a monster. I try to explain why I am doing things that may be confusing to them. I try to let them know when they may want to absent themselves from the courtroom because of the presentation of particularly disturbing evidence. Mostly, I try always to temper my zealotry with humanity. Kerrie Price's case taught me these things. One can zealously advocate for a client and still feel the pain of the surviving family members. Only when a lawyer can do both of these things can she stand before a jury or a judge and ask for mercy.

In 2007, I was contacted regarding a capital case styled *State of New Hampshire v. John Jay Brooks*. Unlike most capitally charged defendants, Mr. Brooks, a wealthy industrialist, was able to finance his own defense. He had retained two experienced criminal attorneys from Boston and local counsel in Concord, New Hampshire before the case went capital. Because this was the first death penalty case in New Hampshire in over 70 years and because there is no death penalty in Massachusetts, Mr. Brooks' team, as it was then assembled, had no one with capital experience. The team was conducting a nationwide search for a litigator with capital experience. After meeting with the lawyers, I was asked to return to New England to meet with Mr. Brooks. I was honored when I was asked to join the team which by then also included David Brooks, a lawyer I knew from his five arguments before the United States Supreme Court and his successful representation of Susan Smith in South Carolina.

What made Mr. Brooks' case unique was that he was a man of privilege who was accused of killing a handy man who lived in a trailer with no plumbing. There is a near universal belief held by capital defense lawyers that the rich are never charged with the death penalty and if they are they certainly never receive it. My own experience bore this out. In virtually all of my other capital cases, I represented defendants who were poor, discriminated minorities, disenfranchised, mentally ill, brain damaged, or otherwise down and out. I was very concerned that it would be my case that blew the lid off the "universal truths" held by the defense bar. I also knew the State's narrative would have some appeal to the largely "anti-establishment" citizens of New Hampshire. Little did I know at that time the stock market would crash in the middle of our three month non sequestered jury trial and there would be so much anger directed toward people of means.

As it turned out there was not that much difference between Jay and the other clients I had represented. Although he invented an important medical device that dramatically improved surgery conditions, and had built a successful company manufacturing and distributing that device, his early history was very similar to that of my other clients. Jay's early life was filled with poverty and physical and mental abuse at the hands of his father. His father ended up being committed to a mental hospital when he pulled a gun on Jay who was 12 years old and trying to save his mother and sister from being shot. As a youth, Jay regularly protected his mother and his sisters from his father's violent rages. Conduct by the victim in his case was likely seen and misconstrued through the lens of an adult obsessed with protecting his family against all attackers, even phantom attackers. In any event, all of this evidence and more was presented to the jury during the penalty phase and they returned a life sentence.

I include Jay's case here because I am very proud of the work we did in that case. Because it was the first death penalty case in 70 years (although another one started while ours was ongoing), it set the standard in New Hampshire for how capital cases will be handled well into the future.

In 1993, I filed a Petition for Writ of Certiorari on behalf of Tommy Schiro, a man sentenced to death over his jury's unanimous recommendation against the death penalty. The Petition was granted and I had the honor of arguing in the United States Supreme Court. I would like to say this was some great landmark decision, a seismic shift in our understanding of the right to counsel or double jeopardy but it really wasn't any of that. The issue concerned very case specific questions regarding collateral estoppel and double jeopardy. But it would be wrong not to include having argued a death penalty case in the United States Supreme Court as one of the five most significant legal matters entrusted to you so here it is. It was supremely cool to argue this

case. I will never forget getting in the cab that morning and telling the cabbie, "the United States Supreme Court, please. . . and step on it!" I was so nervous before it started that I thought I was going to vomit. But after I got my first sentence out, it was the most fun I have had in a professional context. When my 30 minutes was up I could not believe it. I was told after the argument that I referred to "Chief Justice Rehnquist" three times as merely "Justice Rehnquist", something we were repeatedly warned in "Supreme Court School" not to do. He did not correct me and I will be forever grateful to him for that in spite of the fact that I did not get his vote. From a personal perspective, anytime I doubt my ability to do anything I always remember that I went head to head with Justice Scalia and escaped unscathed. It helps.

G. Provide the names, addresses, and telephone numbers of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court.

John Keiffner, Esq.
Marion County Prosecutors Office
251 Ohio St.
Indianapolis, IN 46204
(317) 327-5203

Thad Perry, Esq.
[Retired Deputy Attorney General]
106 Chippenham Ln.
Fishers, IN 46038
(317) 595-9545

Hon. Robert Altice, Judge
Marion Superior Court
City County Building
Indianapolis, IN 46204
(317) 327-4996

VII. A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice.

I am most proud of my teaching as my efforts to improve the legal system. I love working with law students but I also really enjoy teaching lawyers. The new methods of teaching, at least in my field, appear to be geared primarily toward a "bring your own case" model. After participating in these programs the teachers will receive emails throughout the year reporting

reasons but we hope to visit soon in their country, perhaps as early as this winter.

C. List any memberships and offices you have held in civic or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

I do not belong to any civic or charitable organizations although I donate to a number of organizations.

D. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

I was a member and Board member of the Indiana Association of Criminal Defense Lawyers and I have been a member of State and local bar associations throughout the years. My membership in bar associations has been very sporadic and inconsistent.

E. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

I am a member of Highland Golf Club. They do not restrict membership on the basis of race, sex, religion or national origin.

F. Indicate your experience teaching law, and provide the dates, names of institutions or programs, and a description of the subject matter taught.

Appellate Practice, Indiana University School of Law Indianapolis. I taught this class to law students from 2002-2009.

In addition I have taught the following classes or workshops to lawyers:

“Litigation Planning: Protecting Facts” (plenary lecture) and workshops on Brainstorming the Theory of the Case, *Brady* Claims, Jury Misconduct Claims, Direct Examination of Trial Counsel; Witness Preparation and Cross Examination of Mental Health Experts, and Oral Argument; NITA’s Capital Post-Conviction Skills Seminar; San Francisco, California (March 11-14, 2010).

“Unifying the Case While Fighting for Innocence”; “Pleas/Negotiations”; “Fighting for Our Future ~ Funding Challenges and the ABA Guidelines”; California Attorneys for Criminal Justice/California Public Defender Association Capital Case Defense Seminar; Monterey, California (February 12-15, 2010).

the outcomes of the various cases we mentored. These are frequently cheery spots in otherwise grim Indiana winter days.

I am also proud of my work on the Indiana Public Defender Commission. When the Court modified our Guidelines and enacted Criminal Rule 24, it imbued what would otherwise have been only a carrot (the promise of 50% reimbursement to the counties) into a stick. By doing so the Court gave real meaning to the right to counsel in capital cases. It is easy for young lawyers to think things have always been the way they are but C.R. 24 worked a monumental change in the quality of representation in capital cases across the board in Indiana. I am proud to have played a role in that.

B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.

Without question the most important and rewarding thing I have done of a civic, political or social nature is to take in foreign exchange students for the past four years. Both of the students we have taken in have been from Saudi Arabia and that has been deliberate. After 9/11, my husband and I wanted to do something to make a difference in the world. We were not naïve; we knew we could not change the world. That said, through my work I have seen how small acts of kindness can have long lasting positive impact upon kids who have nothing.

We decided to try taking in high school kids from the Middle East and to show them through deed, not words, that Americans are compassionate and kind, that we care deeply about people who are down on their luck or in need. We hoped that each of these children would go home and tell 10 of their friends who would tell 10 of their friends that Americans were good people. What started out as a political endeavor quickly turned to something else. I found a maternal streak I never knew I had. I fell in love with both of our boys; I called them my Arab sons and they called me their American mother.

The grandfather of one of our boys repeatedly tells us “we are all one family now” and we certainly agree. We continue to talk to them in Saudi Arabia on a regular basis. The other boy’s family came to the United States to visit us when he graduated from high school. They stayed with us in our home and we had quite the party. We cooked Arab food together and invited our American friends to join us for the celebration that went well into the night.

I believe we accomplished what we set out to do – show young Arab boys that America is a country of love and compassion. Along the way, we have benefited so much more than we ever dreamed. We have expanded our own family and made new and lasting friendships with their families. A previously planned trip to Saudi Arabia had to be cancelled for professional

“Winning Your Case Through Settlement”; Los Angeles County Public Defender 2009 Capital Case Seminar; Los Angeles, California; (October 16, 2009).

“Capital Litigation and the ABA Guidelines [plenary]; Bring Your Own Case Workshop Leader; Indiana Public Defender Council Death Penalty Defense Seminar; Indianapolis, IN (September 16-17, 2009).

“Death Is Different” [Plenary]; Workshops on Story Telling, Brainstorming, Opening Statements, Jury Selection & Discussing Difficult Issues With Clients; Shechmeister Death Penalty College, Sponsored by the Santa Clara University School of Law *et. al.*; Santa Clara, California (July 25-30, 2009).

“Changing the Picture in Capital §2255 Litigation”; “Persuasive Pleading II: Writing a Compelling IAC Claim”; 2009 Federal Capital Habeas Project Bring-Your-Own § 2255 Case Training”; Indianapolis, IN (May 14-16, 2009).

“Death is Different”, “ABA Guidelines and Professional Ethics for Capital Defense Teams”, Death Penalty Litigation Institute, Erlanger Kentucky (March 16, 2009).

“Prosecutorial and Judicial Misconduct”; “Saving the Client’s Life by Resolving Cases”; Capital Case Defense Seminar; California Attorneys for Criminal Justice; Monterey, CA (2/15/08-2/18/08).

“Getting the Time You Need at Trial and on Appeal”; “Ethics for the Capital Defense Litigator”; Small Group Leader: “Bring Your Own Case”; Indiana Death Penalty Defense Seminar; Merrillville, IN (9/19/07-9/20/07).

“ABA Guidelines - A Roadmap to Very Intense Team Defense”; Puerto Rico Regional Federal Death Penalty Regional Training; San Juan, Puerto Rico (8/9/07).

“Death is Different” [Plenary]; Story Telling, Brainstorming, Jury Selection, Opening Penalty Phase [Workshops]; Shechmeister Death Penalty College; Sponsored by Santa Clara University School of Law, Santa Clara, CA (8/4/07-8/6/07).

“Client Competency and Appeals”; Appellate Advocacy Training: Nuts and Bolts of Appellate Practice; Indiana Public Defender Council; W. Lafayette, IN (5/18/07).

“Exactly How Death is Different - It’s More Than a Murder Case on Steroids” [plenary]; Workshops on Brainstorming and Building Alliances With Clients; Capital Defense Training; National Consortium for Capital Defense Training; Plano, TX (5/10/07).

“The ABA Guidelines and Professional Ethics For Capital Defense Counsel”,
Death Penalty Litigation Institute; Department of Public Advocacy; Louisville,
KY (4/16/07).

“The ABA Guidelines and Professional Ethics For Capital Defense Counsel”,
Virginia Bar Association; Richmond, VA (12/8/06).

“Using the ABA Guidelines to Enhance Our Advocacy”; Federal Capital Defense
Strategy Session; San Antonio, TX (11/10/06).

“The Standard of Care in Death Penalty Defense”; “Mitigation Matters in Both
Life and Death Cases”; Small Group Brainstorming of Defense Theories; Indiana
Death Penalty Seminar; Indianapolis, IN (9/15/06).

“Death is Different” [plenary]; Workshops on: Story Telling, Brainstorming, Jury
Selection & Opening Statement; Death Penalty College; Santa Clara University
School of Law; Santa Clara, CA (8/5/06-8/8/06).

“My Difficult Client - Brainstorming With the Experts”; NAACP Legal Defense
Fund Annual Death Penalty Defense Conference; Warrenton, VA (7/21/06-
7/24/06).

“Before the Highest Court: Supreme Advocates”; Indianapolis Bar Association;
Indianapolis, IN (7/20/06).

“Using the ABA Standards to Improve Working Conditions”; Illinois Annual
Death Penalty Defense Seminar; DePaul University College of Law; Chicago, IL
(6/29/06).

“Using the ABA Guidelines to Meet the Standard of Care in Death Penalty Cases”
[plenary]; “Social History Work: A Shared Duty” [plenary]; “Brainstorming
Themes And Theories of the Case & Integrating Themes & Theories of Both
Phases” [workshop]; Clarence Darrow Death Penalty Defense College; DePaul
University College of Law; Chicago, IL (5/31/06).

“Legal Maneuvering Following an Adverse Decision”; “Standards of Review”;
Criminal and Civil Appellate Practice; Lorman Education Services; Indianapolis,
IN (3/23/06).

“The Sixth Amendment and Ethics in Practice”; Capital Case Defense Seminar;
sponsored by California Attorneys for Criminal Justice and California Public
Defender Association; Monterey, CA (2/19/06).

“The ABA Guidelines and Zealous Team Advocacy” [plenary]; “Execution

Impact - The Experience and the Evidence" [plenary]; Brainstorming Mitigation Themes and Theories [workshop]; Interviewing Skills [workshop]; Capital Defense Training; Sponsored by the Bureau of Justice Assistance and the National Consortium for Capital Defense Training; Charleston, SC (February 9-10, 2006).

"Death is Different - An Introduction to Why" [plenary lecture]; Workshops: "Brainstorming"; "Capital Voir Dire Practice"; "Developing and Preparing the Mitigation Theory of the Case; Roles Within the Team"; "Identifying and Addressing Mental Health Issues"; "Telling Your Client's Story: Opening Statements in the Life Phase"; Capital Defense Training; Sponsored by the Bureau of Justice Assistance and the National Consortium for Capital Defense Training; Santa Clara University School of Law (November 10-13, 2005).

"Borderline Personality Disorder"; "Using the ABA Guidelines"; Indiana Public Defender Council Death Penalty Defense Seminar; Indianapolis, IN (9/15/05).

"Understanding Mitigation After Wiggins" [plenary]; Workshops: Brainstorming, Jury Selection, Opening Statements; Death Penalty College, Sponsored by Santa Clara University School of Law and California Attorneys for Criminal Justice; Santa Clara, CA (7/30/05-8/2/05).

"Litigating Ineffective Assistance of Counsel Claims" [plenary]; Evidentiary Use of Prior Statements [plenary/demonstration]; Workshop leader: Brady claims, interviewing witnesses, direct examination of trial counsel; direct and cross examination of mental health experts; NITA and The Habeas Institute; Georgia State University (6/3/05-6/6/05).

"Representing Mexican Nationals Charged With the Death Penalty", Death Penalty Defense Seminar, Cook County Public Defender (2/24/05).

"Standards of Care Under Wiggins and ABA Guidelines", CACJ/CAPDA Capital Case Defense Seminar, Monterey, CA (2/20/05).

Workshop Leader; Persuasion Institute: Advanced Training Program Workshop in Narrative Construction for Post-Conviction Litigators"; Sponsored by the Administrative Office of the United States Courts; Philadelphia, PA (9/17/04-9/19/04).

"Recent Developments"; Handling Your First Death Penalty Case"; Death Penalty Defense Seminar; Sponsored by the Indiana Public Defender Council; Indianapolis, IN (9/16/04).

Keynote Address; National Habeas Corpus Conference; Sponsored by the Administrative Offices of the United States Courts; St. Louis, MO (8/19/04).

Plenary Lecture: “Unifying Your Case Through Mitigation Themes”; workshops on brainstorming the case & developing a unified theory and voir dire; University of Santa Clara Law School; Death Penalty College; Santa Clara, CA (7/31/04-8/2/04).

“Ring issues after Summerlin”; NAACP Legal Defense & Education Fund 25th Annual Capital Punishment Training Conference; Airlie, VA (7/24/04).

“Ineffective Assistance of Counsel Claims” (plenary) & various workshops; “The Habeas Institute”; Georgia State University College of Law; Atlanta, Ga (June 3-6, 2004).

“Coping with Allegations of Ineffective Assistance of Counsel”, Criminal Defense in the Death Belt; Oklahoma Criminal Defense Lawyers Association; Oklahoma City, Oklahoma (3/18/04).

“Representing Foreign Nationals”; Federal Defender of Southern Indiana; Indianapolis, IN (12/12/03).

“Developing Appellate Skills”; Workshop Leader; ICLEF; Indianapolis, IN (11/13/03).

“Special Concerns in the Representation of Mexican Nationals”; Delaware Public Defender Organization; Wilmington, DE (10/24/03).

“New Developments in Capital Defense”; “Representing Foreign Nationals”; Indiana Annual Death Penalty Defense Seminar; Indiana Public Defender Council; Indianapolis, IN (9/03).

“Ineffective Assistance Claims After *Wiggins* and *Williams*”; National Habeas Corpus Seminar; Sponsored by the Defender Services Division of the Administrative Offices of the Federal Courts; Chicago, IL (8/03).

“Litigating Ineffective Assistance of Counsel Claims”; Demonstration on admitting documents; Work shop leader; The Habeas Institute; Sponsored by New York University School of Law, NITA and the Habeas Assistance and Training Counsel; New York University School of Law; New York, New York, (6/2003).

“Introduction to Capital Litigation from Arrest to Trial”; “Dealing with Defense Lawyers: How to Know Whether a Defense Attorney is Providing Adequate Legal Representation”; Training Seminar on the Death Penalty for Consular Protection Officers in the United States sponsored by the Government of Mexico; Chicago, IL (12/12/02-12/13/02).

“Dealing with Defense Lawyers: How to Know Whether a Defense Attorney is

Providing Adequate Legal Representation”; Training Seminar on the Death Penalty for Consular Protection Officers in the United States sponsored by the Government of Mexico; Los Angeles, CA (12/6/02).

“Appellate Practice”; Women and the Law Conference; Indianapolis, Indiana (10/2002).

“Recent Developments in Capital Litigation”; Indiana Death Penalty Defense Seminar; Indiana Public Defender Council; Indianapolis, Indiana (9/12/2002).

“Litigating Ineffective Assistance of Counsel Claims”; workshop leader: The Habeas Institute; Representing a Death-Sentenced Client in Post-Conviction Proceedings; NITA/Habeas Assistance and Training Counsel; New York University School of Law; New York, New York, (6/2002).

“Mitigation Evidence: Expert Evidence”; “Dealing with Difficult Clients”; Workshop Leader; Clarence Darrow Death Penalty Defense College; University of Michigan Law School, Ann Arbor, MI (May 2002).

Workshop Leader: Statement of Facts, Statement of Issues, Writing the Argument; Developing Appellate Skills, Sponsored by the Indiana Continuing Legal Education Forum (ICLEF), Indianapolis, IN (11/15/2001).

“Things You Need to Know About Capital Litigation”; Defending Death Penalty Cases, Sponsored by Indiana Public Defender Council, Indianapolis, IN (9/2001).

“Search and Seizure”; Indiana Continuing Legal Education Forum; Indianapolis, IN (8/23/01).

“Negotiations in Capital Post-Conviction Litigation”; “The Development and Presentation of Ineffective Assistance of Counsel Claims”; National Federal Habeas Corpus Seminar; sponsored by the Habeas Assistance and Training Counsel, Federal Defender Training Group, & the Administrative Office of the United States Courts, Nashville, TN (8/11/01).

Plenary Lecture: “Surviving Your Case”; Workshop Leader: Themes & Theories, Opening Statements, Voir Dire, Attacking Aggravation Evidence and Pleading Your Case; Death Penalty College, University of Santa Clara Law School; Santa Clara, California (8/4/01-8/9/01).

“Themes and Theories”; “Jury Issues in Capital Cases”; Defending Death Penalty Cases; Indiana Public Defender Council; Indianapolis, IN (9/2000).

“Surviving Your Case”; Workshop Leader; Death Penalty College; Santa Clara University School of Law; Santa Clara, California (8/5/2000-8/10/2000).

Workshop Leader; The Habeas Institute; Representing a Death-Sentenced Client in Post-Conviction Proceedings; NITA/Habeas Assistance and Training Counsel; New York University School of Law; New York, New York, (7/2000).

“Combating Prosecutorial Misconduct”; Death Penalty Defense Seminar; Indiana Public Defender Council (9/99).

Death Penalty College, University of Santa Clara School of Law, California; workshop leader and lecturer for one week program addressing the defense of trial level death penalty cases (8/99).

Plenary Lecture: “Ineffective Assistance of Counsel”; Workshop leader: *Brady* Exercises, Ineffective Assistance of Counsel Exercises, Juror Misconduct Exercises, Mitigation and Mental Health Exercises, Argument Presentation Exercises; The Habeas Institute; Representing a Death-Sentenced Client in Post-Conviction Proceedings; NITA/Habeas Assistance and Training Counsel; University of Tennessee School of Law; Knoxville, Tn. (2/99).

“Using the Witness Stand -- Evidentiary Hearings and Fact Development”; The Changing Picture of Habeas Corpus: Third Annual National Habeas Corpus Seminar, sponsored by the Habeas Assistance and Training Counsel, Federal Defender Training Group, & the Administrative Office of the United States Courts, Atlanta, GA. (8/27/98-8/30/98).

“Interviewing Witnesses & Facing Obstruction of Justice Allegations: What to Do”; NAACP Legal Defense and Educational Fund’s 19th Annual Capital Punishment Training Conference; Airlie, Virginia (7/26/98).

Plenary Lecture: “Ineffective Assistance of Counsel”; Workshop leader: *Brady* Exercises, Ineffective Assistance of Counsel Exercises, Juror Misconduct Exercises, Mitigation and Mental Health Exercises, Argument Presentation Exercises; The Habeas Institute; Representing a Death-Sentenced Client in Post-Conviction Proceedings; NITA/Habeas Assistance and Training Counsel; University of Texas School of Law; Austin, Tx. (6/25/98-6/28/98).

“Truth, Reconciliation and the American Death Penalty”; Yale Law Women; Yale Law School; New Haven, Conn. (3/11/98).

Workshop Leader: *Brady* Exercises, Ineffective Assistance of Counsel Exercises, Juror Misconduct Exercises, Mitigation and Mental Health Exercises, Argument Presentation Exercises; The Habeas Institute: Representing a Death-Sentenced Client in Post-Conviction Proceedings; NITA/Habeas Assistance and Training Counsel; Temple University School of Law, Philadelphia, Pa. (1/29/98-2/1/98).

Workshop Leader: Brief Critiquing; Oral Argument; Appellate Practice Skills Institute; Indiana Continuing Legal Education Forum (ICLEF); Indianapolis, Indiana (11/14/97).

“Recent Developments in Death Penalty Defense”; “Pleading Prejudice on Appeal”; “Post-Trial Workshop for Capital Defenders”; “Federal Habeas Corpus”; Defending Death Penalty Cases; Indiana Public Defender Council; Indianapolis, Indiana (9/19/97).

“Evidentiary Hearings, Discovery and Other Fact Development Procedures”; National Capital Habeas Corpus Training Seminar: The Changing Picture of Habeas Corpus; New Orleans, La. (8/23/97).

“The Written and Unwritten Rules of Seventh Circuit Practice”; “State Post-Conviction Procedures and the New Habeas”; “Expanding the Record and Evidentiary Hearings in Collateral Proceedings”; 7th Circuit Training Seminar; Chicago Kent College of Law; Chicago, Illinois (4/25/97-4/26/97).

“An Introduction to Federal Habeas Corpus”; “Seventh Circuit Practice Tips”; Indiana Public Defender Council; Capital Federal Habeas Corpus Seminar; Indianapolis, Indiana (4/11/97).

“State Post-Conviction and Federal Habeas Corpus”; National Legal Aid and Defenders Association; Appellate Defense Seminar; Indianapolis, Indiana (10/21/96).

“The Anti-Terrorism and Effective Death Penalty Act of 1996”; Indiana Public Defender Council; Death Penalty Defense Seminar; Indianapolis, Indiana (9/13/96).

“Defusing Increasing Client Tensions”; NAACP Legal Defense Fund; Warrenton, Va. (7/30/95).

“Preserving Error at Trial and on Appeal”; ICLEF; Indianapolis, Indiana (11/19/94).

“Using the New Mental Retardation Statute”; Indiana Public Defender Council Death Penalty Defense Seminar; Indianapolis, Indiana (9/94).

“New Strategies for State Lobbying”; NAACP Legal Defense Fund; Warrenton, Va. (7/94).

“Hot Issues in Death Penalty Defense”; “Dealing with Difficult Clients”; Arizona Capital Punishment Project; Arizona State University; Tempe, AZ (10/93).

Keynote Address; Indiana Death Penalty Defense Seminar; Indiana Public Defender Council; Indianapolis, Indiana (9/93).

“Hot Issues in State and Federal Death Penalty Litigation”; NAACP Legal Defense Fund; Warrenton, Virginia (7/93).

“Hot State and Federal Issues in Death Penalty Litigation”; National Legal Aid and Defenders Association; New Orleans, Louisiana (3/93).

“What's Hot and What's Not In Death Penalty Litigation”; “State Constitutional Claims”; NAACP Legal Defense Fund; Warrenton, Virginia (7/92).

“Litigating *Ake* Motions”; “Appointment and Compensation of Counsel in Death Penalty Cases”; “Creative Death Penalty Litigation”; Workshop leader: Mitigation in Death Penalty Cases; Indiana Public Defender Council (6/92).

Commencement Speaker, Paralegal School; Indiana University - Purdue University at Indianapolis; 5/29/92.

“Preserving Error and Litigating Motions”; “Hot Issues In Capital Litigation”; Life In The Balance IV; National Legal Aid and Defenders Association; Nashville, Tennessee (3/92).

“Juveniles and the Death Penalty”; National Bar Association; Indianapolis, IN (8/7/91).

“Recent Decisions of the United States Supreme Court: October 1990 Term”; Indiana Public Defender Council; Indianapolis, Indiana (8/10/90).

“Developing a National Capital Litigation Training Program”; NAACP Legal Defense Fund; Warrenton, Virginia (8/90).

“What Stays, What Goes, What Goes Where: Issue Selection and Prioritization”; Workshop Leader: Issue Prioritization Workshop, Oral Argument Workshop; National Legal Aid and Defender Association (4/90).

“Legislation: The Forgotten Forum”; NAACP Legal Defense Fund; Warrenton, Virginia (7/88).

“The United States Supreme Court: Review of 1987-88 Term”; Indiana Public Defender Council; Indianapolis, Indiana (7/9/88).

“Re-Thinking the Death Penalty”; Amnesty International; Bloomington, Indiana (11/5/87).

“Review of Recent United States Supreme Court Decisions Affecting Criminal Defense”; Indiana State Public Defender; Indianapolis, Indiana (9/87).

“Recent Cases from the United States Supreme Court Affecting the Law of Search and Seizure”; Hendricks County Bar Association; Danville, Indiana (9/87).

“Moving Public Opinion Against Death: How to Develop a Better Class of Jurors in Your Area”; NAACP Legal Defense Fund; Warrenton, Virginia (8/6/87).

“Review of Recent U.S. Supreme Court Decisions Impacting Criminal Defense”; Indiana Public Defender Council; Indianapolis, Indiana (5/29/87).

“State Issues in Death Penalty Litigation”; Indiana Public Defender Council; Indianapolis, Indiana (2/19/87).

H. Describe your hobbies and other leisure activities.

I like to cook to relax. I took a “boot camp” class at the Culinary Institute of America in Hyde Park, New York about 8 years ago that really changed my approach to cooking. It was not *what* I learned to cook that was so amazing (although we did learn to make cheese) but rather the way the class made me fearless about cooking new, and sometimes complicated, dishes. Lucky for me, my husband will eat anything.

I also enjoy travel, domestic and international. My favorite trips have been to Lake Tahoe (summer and winter), Big Sur, Mendocino, South Africa (for safari), Italy (including Sicily), Greece, and Costa Rica.

I am an enthusiastic golfer and racquetball player although I am terrible at both. I enjoy reading, primarily, though not exclusively, fiction. I just finished The Help which is my favorite book in a long time. Other favorites include Anna Karenina, Catcher in the Rye and A Prayer for Owen Meaney.

VIII. A. Provide names, addresses, and telephone numbers of three professional references other than those listed in Section VI. G.

Hon. Tanya Walton Pratt, Judge
Federal District Court
46 E. Ohio St.
Indianapolis, IN 46204
(317) 229-3640

Martin Murphy, Esq.
Foley Hoag

Seaport World Trade Center
155 Seaport Blvd.
Boston, MA 02210
(617) 832-1000

Ellen S. Kreitzberg
Professor of Law
Santa Clara University School of Law
Bergin Hall Room 115
500 El Camino Real
Santa Clara, CA 95053
(408) 554-4724

B. Provide names, addresses, and telephone numbers of three personal references other than those listed in VI. G.

Hon. Jane Magnus Stinson, Judge
Federal District Court
46 E. Ohio St.
Indianapolis, IN 46204
(317) 229-3674

Robert Lauth, Chairman & CEO
Lauth Group
401 Pennsylvania Parkway
Indianapolis, IN 46280
(317) 848-6500

Jill Greuling, VP of Operations
LA Fitness, International
P.O. Box 54170
Irvine, CA 92619
(800) 600-2540
(714) 505-8958

C. List any lawsuits or legal proceedings in any jurisdiction, including bankruptcies and dissolutions, to which you have been a party. Provide dates, case numbers, names of other parties, and, if needed, a brief explanation.

Foster v. Hammerle, Shelby County Cause Number

D. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

Other than routine traffic violations, I have never been arrested or cited for any violation of the law.

E. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide dates.

N/A

F. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number if applicable, and describe the circumstances and the nature of the outcome or resolution.

I have never been disciplined, formally or informally.

G. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

I have no outstanding tax debt, federal, state or local.

IX. A. Attach a recent statement from your physician describing your general physical condition.

B. Within the past three years, have you been diagnosed or treated for an emotional or mental condition or illness, including any condition that involves treatment for drug or alcohol use? If so, provide the dates of assessment and/or treatment and the names and addresses of your doctors or other treatment providers.

C.Are you able to perform the essential functions of Justice on the Indiana Supreme Court, with or without accommodation?

Yes.

6/30/2010

DATE



APPLICANT'S SIGNATURE

MONICA FOSTER

PRINTED NAME

WAIVER AND STATEMENT OF CONSENT

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees, may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

6/30/2010

DATE



APPLICANT'S SIGNATURE

MONICA FOSTER

PRINTED NAME